

**Before the California Energy Commission  
State of California**

<b>IN THE MATTER OF:</b>	)	<b>Docket No. 01-AFC-7C</b>
	)	
<b>MODIFICATION OF CERTIFICATION FOR</b>	)	<b>Agreement Regarding</b>
<b>THE RUSSELL CITY ENERGY CENTER</b>	)	<b>WASTE-8, WASTE-9, and</b>
<hr/>	)	<b>WASTE-10</b>

**BACKGROUND**

An evidentiary hearing was held on July 19, 2007, in the City of Hayward, during which testimony was taken and exhibits entered into evidence, including Applicant's Exhibit 15, filed on July 18, 2007. Applicant and Staff had not reached agreement on language contained in certain conditions as to Waste Management in Exhibit 15, as well as certain language contained in conditions regarding Transmission System Engineering and Transmission Line Safety and Nuisance. At the close of the hearing, Applicant and Staff were directed to finalize the language in these conditions, and the record was left open for that purpose.

On July 25, 2007, a conference call was initiated from the office of the Energy Commission for the purpose of discussing the language in Applicant's Exhibit 15 with respect to Waste Management, as well as to finalize the language contained in conditions relating to Transmission System Engineering and Transmission Line Safety and Nuisance.

**AGREEMENT OF LANGUAGE**

Applicant and Staff have reached agreement as to the language of the subject conditions as follows:

1. As to the language contained in Waste-8 and Waste-9, Applicant and Staff are in agreement regarding the changes proposed in Applicant's Exhibit 15.
2. As to the language contained in Waste-10, Applicant and Staff agree that the modifications proposed in the Staff's pre-hearing conference statement (but inadvertently omitted in Exhibit 15) should replace the changes proposed in Applicant's Exhibit 15.

3. As to the language contained in Transmission System Engineering and Transmission Line Safety and Nuisance, after some discussion, Applicant and Staff agree on the language of these conditions as proposed by Staff. It was noted, however, that PG&E has yet to be consulted regarding the Transmission Line Safety and Nuisance conditions.

The agreed-upon changes from Exhibit 15 and Staff's Prehearing Conference Statement are attached as Exhibit A. In agreeing to the language of the conditions as discussed above, the Applicant and Staff further agreed that these stipulated changes would be filed and docketed by close of business on July 27, in accordance with the direction previously provided by the hearing officer.

Date: July 27, 2007

original signed by  
KEVIN W. BELL  
Staff Counsel

Attachment

## Exhibit A

### WASTE-8

The project owner shall **prepare in consultation with the CEC, City of Hayward Fire Department and the RWQCB a groundwater sampling plan to be part of the Soils Management Plan submitted in Waste-9. The sampling locations and constituents to be sampled will be based on previous results from the site assessments already conducted, and will specifically consider** ~~sample and submit sampling results of groundwater below~~ the biosolids drying area, the wood treatment area and the metal Master's building **to fill data gaps. for the following constituents: Total Petroleum Hydrocarbons, Volatile and Semi-volatile Compounds, Polychlorinated Biphenyls, metals and chlorinated herbicides.**

Verification: The Project shall submit the groundwater sampling report to the San Francisco Bay Regional Water Quality Control Board and Hayward Fire Department at least ~~120~~ **60** days prior to start of construction. At least 30 days prior to the start of commercial operations, if the groundwater is found to be contaminated the project owner shall submit to the CPM documentation that the groundwater sampling report has been recorded as part of the environmental Restrictions required by Waste-11.

### WASTE-9

Prior to any earthwork, the project owner shall prepare and submit to the City of Hayward Fire Department, San Francisco Bay Regional Quality Control Board, and the CPM for approval, a Soils Management Plan (SMP). The SMP must be prepared by a California Registered Geologist, a California Certified Engineering Geologist, or a California Registered Civil Engineer with sufficient experience in hazardous waste management. The SMP should include but is not limited to the following:

- Land use history, including description and locations of known contamination;
- An earthwork schedule;
- A SMP summary report, which includes all analytical data and other findings, must be submitted once the earthwork has been completed;
- The project owner shall describe methods which will be used to properly handle and/or dispose of soil which may be classified as hazardous or contain contaminants at levels of potential concern;
- The SMP will discuss, as necessary, the reuse of soil on site in accordance with applicable criteria to protect construction or future workers onsite; and
- This SMP may be submitted as part of the cleanup plan.

| Verification: At least ~~420~~60 days prior to any earthwork, including those earthwork activities associated with the site mobilization, ground disturbance, or grading as defined in the general conditions of certification the project owner shall submit the Soils Management Plan to the City of Hayward Fire Department and the San Francisco Bay Regional Quality Control Board for review and comment, and to the CPM for approval.

#### WASTE-10

The project owner shall ensure that the site is properly characterized and remediated. The project owner shall consult with the City of Hayward Fire Department and the San Francisco Bay Regional Quality Control Board in preparing a Site Cleanup Plan for soil and groundwater contamination present on the RCEC site in compliance with the **Water Quality Control Plan for the San Francisco Bay Region prepared pursuant to** the Porter-Cologne Water Quality Act, California Water Code **Section** ~~43267~~ **13240**. The project owner shall submit this plan to both the City of Hayward Fire Department and the San Francisco Bay Regional Quality Control Board for review and comment to the CPM. [The rest of condition Waste-10 would remain unchanged.]